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Workmen's Compensation Law

of the

STATE OF KENTUCKY

Effective August 1st, 1916

Workmen's Compensation Law

of the

State of Kentucky

Reprinted, May, 1916

UNIV. OF CALIFORNIA

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Digest of the Kentucky Workmen's Compensation Law*

TITLE, ETC.

Senate Bill No. 40, Laws of 1916; approved March 23, 1916. Administrative provisions effective April 1, 1916; liability provisions effective August 1, 1916 (§81).

SYSTEM PROVIDED FOR

Compensation, elective (§ 3), with insurance or security (§§ 63, 84-100). Administered by Workmen's Compensation Board of three members, one for each of three districts into which State is divided (§§ 39-45).

HOW ELECTED

Employer elects by filing written notice, in prescribed form, with the Board (§ 73). Employee elects by signing prescribed form of notice to be filed with employer (§ 74). In case of employments not subject to the Act, employer and employees may elect to come under the Act by joint application to the Board, for period stated in application (§ 1).

HOW ELECTION CHANGED

Employer may change his election by filing written notice with the Board, by personal written notice to employees or posting same at place of business for at least a week. Employee may change election by filing with employer written notice of withdrawal, specifying date on which effective (§ 76). As to employments not subject to the Act, acceptance is binding for period stated in application and until written revocation is filed with the Board (§ 1).

ALTERNATIVE LIABILITY

If employer does not elect to come under the Act, he is liable to injured employee for damages, with the defenses of contributory negligence, fellow servant's fault and assumption of risk abrogated (§ 76a). If employer elects to come under the Act and the employee does not, such defenses are available in case of action by employee (§ 76b).

EMPLOYMENTS COVERED

All, including municipal corporations, in which five or more are regularly employed, except domestic service, farm labor, steam railways and

* The headings of this Digest conform in substance and order with those of the "Digest of Workmen's Compensation Laws in the United States and Territories" (compiled by F. Robertson Jones and published by the Workmen's Compensation Publicity Bureau, 80 Maiden Lane, New York City)—so that the former supplements the latter.

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common carriers other than steam railways which are subject to a Federal liability law (§§ 1-2). Excepted employments may be brought under the Act by joint application of employer and employee (§ 1).

EMPLOYMENT IN INTERSTATE COMMERCE

The Act does not extend to steam railways or to common carriers other than steam railways for which a rule of liability is provided by Federal law (§ 1).

INJURIES COVERED

Personal injuries by accident arising out of and in the course of employment, unless wilfully self-inflicted or caused by wilful misconduct or intoxication. Not to include disease except where it is the natural and direct result of a traumatic injury by accident, nor the results of a pre-existing disease (§§ 1, 3). Special restrictions governing injuries producing hernia (§ 4a).

NOTICE OF INJURY AND CLAIM FOR COMPENSATION

Written notice, with certain particulars, must be given to employer as soon as practicable after accident. Defect in notice does not invalidate claim unless employer was misled to his injury. Want of notice or delay in giving same does not bar claim if occasioned by mistake or other reasonable cause, or if employer had knowledge of injury. Claim must be made within a year after accident, death or suspension of payments (§§ 23, 33-36).

WAITING PERIOD

No compensation is payable for first two weeks of disability. Compensation begins on first regular pay day after expiration of two weeks' period (§ 7).

MEDICAL AND SURGICAL AID

Employer must furnish medical, surgical or hospital treatment, etc., as reasonably required during 90 days after injury, unless Board otherwise directs within that time; maximum $100. In case of operation for hernia, maximum liability is raised to $200, and employee is entitled to 26 weeks' compensation in addition. Board may under certain circumstances require a change of physician. Charges for treatment are limited to those prevailing in the community, and are subject to regulation by the Board. Employee who unreasonably refuses to submit to treatment forfeits compensation (§§ 4-6).

COMPENSATION FOR TOTAL DISABILITY

65 per cent of average weekly earnings, maximum $12, minimum $5, weekly, maximum period eight years, maximum amount $5,000, including partial disability payments, if any. Certain severe injuries deemed to constitute permanent total disability (§ 16).

COMPENSATION FOR PARTIAL DISABILITY

65 per cent of loss of earning power, maximum $12 weekly, maximum period 335 weeks, including period of total disability payments, if any. Special schedule of compensation for loss of certain members, etc. Employee's refusal to accept suitable employment during partial disability, unless justified, forfeits compensation for period of refusal (§§ 17-19).

COMPENSATION FOR DEATH

If death results from accident within two years, in all cases, reasonable burial expenses, maximum $75. In addition, to total dependents, 65 per cent of average weekly earnings, maximum amount $4,000, maximum period 335 weeks, including period of disability payments, if any. To partial dependents, payments based on foregoing schedule and proportioned to measure of dependency, maximum amount and period same as above. Compensation to cease upon death or marriage of dependent. If no dependents, $100 to personal representative of deceased (§§ 12, 15).

EFFECT OF PREVIOUS DISABILITY

If previously injured employee sustains subsequent injury resulting in a condition to which both injuries contribute, employer in whose employment the later injury is received is liable for compensation based on such resulting condition, less amount payable for prior injury (§ 20).

AVERAGE WAGES—HOW COMPUTED

Average weekly wages to be based on earnings while working at full time. If employee at the time of injury is employed at higher wages than earlier in the year (unless such employment is seasonal), only such higher wages to be considered in computing average weekly earnings (§ 24).

WHO ARE DEPENDENTS

Certain persons presumed to be wholly dependent; in other cases, dependency to be determined in accordance with facts at time of accident. Dependents are limited to parents, spouse, father-in-law, mother-in-law, grandparents, child, grandchild, brother, sister, or one living in household of employee at time of accident. Partial dependency may be determined by proportion of employee's earnings contributed to dependent during year preceding injury; otherwise Board may fix degree of dependency. Payment of death benefits to supposed dependent or to one subsequent in right releases employer in absence of written notice of prior claim (§§ 12-15).

NON-RESIDENT ALIENS

Non-resident alien dependents are excluded from benefits of the Act, except widows and children, who are entitled to one-half the amount provided for residents; and employer may at any time commute such payments to the then value thereof (§ 22).

MEDICAL EXAMINATION

Injured employee must submit to medical examination at reasonable times and places upon request of employer or Board. Employee may have his own physician present. Refusal to submit forfeits right to compensation for period of continuance. Employer's physician may visit employee at reasonable times (§ 37). Board may appoint physician for this purpose upon application of either party (§ 58). Special regulations governing examination for hernia (§ 4a).

SETTLEMENT OF CLAIMS AND DISPUTES

Terms of compensation may be settled by agreement, subject to approval of Board (§ 48); otherwise, upon application of either party as soon as possible after disagreement, by the Board or a member thereof or a referee authorized by the Board (§§ 49, 50, 60). If first hearing was not held before full Board, application for review may be made to the Board within seven days after award (§ 51).

RIGHT OF APPEAL

Board's award is final as to questions of fact; but either party may within 20 days file a petition for a review by the Circuit Court upon certain specified grounds. Where amount involved is sufficient under existing laws, judgment of Circuit Court may be reviewed by Court of Appeals (§§ 52-55).

MODIFICATION OF AGREEMENTS AND AWARDS

Upon its own motion or upon application of any party interested, the Board may at any time review award and end, diminish or increase payments on the ground of changed conditions (§ 21).

COMMUTATIONS

After six months' payments, upon application of either party and notice to the other, if Board finds it for the best interests of either party and that it will no subject the employer or insurer to undue risk of overpayment, future compensation may be commuted to a lump sum equal to the present value of probable future payments discounted at 5 per cent. per annum. The Board may direct such payments to be made to a trustee, thus discharging employer and insurer (§§ 26-27).

PREFERENCE

The right of compensation has the same preference or priority for the whole thereof against the assets of the employer as is allowed for unpaid wages for labor (§ 31).

ASSIGNMENTS AND EXEMPTIONS

Claim for compensation is not assignable, and is exempt from claims of creditors (§ 32).

HOW COMPENSATION IS SECURED

Assenting employer is required to insure his liability for compensation in some authorized corporation or association, or furnish the Board with satisfactory proof of financial ability to make payments direct and deposit acceptable bond, indemnity or other security (§ 63).

METHOD OF PAYMENT AND PROCEEDINGS TO COLLECT

Compensation is payable directly to employee or dependent by employer or insurer, on regular pay days, with interest at 6 per cent. per annum on each instalment from time it is due until paid (§ 7). The Board may, upon application of either party, order payments made monthly or quarterly (§ 25). Any party in interest may file in Circuit Court a certified copy of memorandum of agreement approved by the Board, or of the Board's award, whereupon the Court must render judgment in accordance therewith, which may be enforced as other judgments duly rendered (§ 56).

ATTORNEYS' LIENS AND FEES

Fees of attorneys, physicians, etc., are subject to approval of the Board. Attorney's fee is limited to 15 per cent. of amount of recovery up to $1,000 and 10 per cent. of any recovery in excess of $1,000. The Board may deny or reduce fee upon proof of solicitation of employment (§ 59).

MINORS AND INCOMPETENT PERSONS

Minors of legal working age are deemed *sui juris* for purpose of Act; but lump sum awarded must be paid to guardian (§ 11). Compensation of insane person is to be paid to committee (§ 28). No limitation of time is to run against mentally incompetent person or minor dependent while he is without a guardian, committee or next friend (§ 38). Guardian or personal representative of minor illegally employed may claim compensation or sue for damages (§ 30).

WHERE INJURY IS CAUSED BY THIRD PARTY

Where injury is caused by third party, employee may elect to claim compensation from employer or to sue third party for damages, but may not collect from both. If compensation is awarded, employer is subrogated to employee's right of action against third party (§ 9).

PRINCIPAL AND SUB-CONTRACTOR

A principal, intermediate or sub-contractor is liable for compensation to injured employees of a sub-contractor if injury occurs on premises under the control or management of the former, but is entitled to indemnity from sub-contractor. Claim must be presented in the first place to immediate employer, and in case of full recovery, claim against principal or intermediate contractor is barred (§ 10).

SUITS FOR DAMAGES

If both employer and employee have elected to come under the Act, the employer is released from all other liability for injury sustained by employee, except that where injury results from deliberate intention of employer, employee or dependents may elect to take compensation or to sue for damages as before Act was passed (§ 3). Same option exists in case of injury to minor illegally employed (§ 30), or where employer has failed to file with the Board required evidence of compliance with provision for securing compensation (§ 63).

ACCIDENT PREVENTION

If accident is due to employer's intentional failure to install safety appliance, etc., compensation is to be increased 15 per cent. If due to employee's intentional failure to use the same, or to obey reasonable safety regulation, compensation is to be reduced 15 per cent. (§ 29). Directors of Employees' Insurance Association must make and enforce reasonable rules for prevention of accidents on premises of subscribers (§ 99).

REPORTS REQUIRED

Assenting employers must report to the Board all injuries causing absence from work for more than one day, within a week after occurrence and knowledge thereof, on blank forms provided, and make supplementary report upon termination of disability or after sixty days (§ 61). Such employers must file with the Board at time of election, and annually thereafter, evidence of compliance with provisions for securing compensation (§ 63). Employers carrying their own risks must file with the Board reports under oath on their pay-rolls for the six months ending October 31, 1916, for the eight months ending June 30, 1917, and annually thereafter. Similar report must be made by insurance companies on amount of premiums received within the State (§ 83).

POSTING NOTICES

Assenting employer must post conspicuously at his place of business, notice of acceptance in form prescribed by the Board. Employer withdrawing his acceptance may, in lieu of personal written notice to employees, post notice of withdrawal conspicuously at place of business (§ 76).

CONTRACTING OUT

Subject to approval of Board, employer may agree with employees upon system of compensation, benefit or insurance in lieu of that provided by the Act, but benefits must be at least equivalent to those under the Act, and if contributions from employees are required, additional benefits must be conferred commensurate with such contributions. Such substitute system may be terminated by the Board upon reasonable notice for good cause (§ 66). With this exception, no contract, regulation, etc., may operate to relieve employer from liability under Act (§ 8a).

INSURANCE

General Provisions.

Insurance policies must provide that notice to insured is notice to insurer; that they are a direct obligation to beneficiaries, not affected by want of notice, and are otherwise subject to provisions of Act. Policies must be approved as to form by Commissioner of Insurance, and must cover full liability under the Act unless employer has a certificate of self-insurance covering part of his risk (§§ 67-71). Companies writing compensation insurance are subject to a tax of 4 per cent. on premiums received within the State, to defray expenses of administering Act. Similar tax, based on amount of pay-roll, is levied on employers who carry their own risks (§ 83).

Stock Companies.

Employer may insure his liability for compensation with any authorized corporation (§ 63).

Mutual Insurance.

Employers are authorized to form mutual insurance associations or reciprocal or inter-insurance exchanges, subject to regulation by the Board (§ 65).

State Insurance.

There is no genuine state insurance, but the Act provides for the organization by the state of the Kentucky Employees' Insurance Association, a mutual scheme similar to that in Massachusetts and Texas, which, when organized, stands on an equal footing with private associations. Policies may not be issued until at least 50 employers, having not less than 5,000 employees, have subscribed (§§ 84-100).

Regulation of Rates.

Rates of compensation insurance must be fair, reasonable and adequate, with due allowance for merit rating; and discrimination is forbidden. Rates must be approved by the Board before policy may be issued; and all basic and merit rating schedules must be filed with the Board for its approval (§ 72). Premiums, assessments, etc., proposed by Kentucky Employees' Insurance Association must be filed with Insurance Department and approved by Commissioner (§§ 97-98).

PENALTIES

For failure to report accidents, $25 fine (§ 61). Fraud in connection with claim for compensation is a misdemeanor, punishable by $50 to $500 fine or from 10 to 90 days' imprisonment (§ 62). Destruction, concealment or alteration of employee's notice of acceptance is a misdemeanor, punishable by $50 to $200 fine or from 10 to 90 days' imprisonment (§75). Deducting any portion of insurance cost from employees' wages is a misdemeanor, punishable by $100 fine (§ 77). Acting as agent for insurance company

which has been suspended from doing business, or making false statement in report of such insurance company's business, is a misdemeanor, punishable by $100 to $1,000 fine or from 10 to 90 days' imprisonment, or both (§ 83 [5]).

EXTRA-TERRITORIAL EFFECT

Act extends to injuries sustained outside the state by employees hired within the state, in the absence of express written agreement to the contrary (§ 8).

CONSTITUTIONALITY

If any part of Act is held invalid, it shall not affect the Act as a whole or any other part thereof (§ 102).

MISCELLANEOUS PROVISIONS

Municipal pension associations or funds are not disturbed by the Act (§ 2).

TEXT OF THE LAW

SENATE BILL NO. 40, LAWS OF 1916

AN ACT to provide an elective system of workmen's compensation for industrial accidents, prescribing the manner of election and the rights and liabilities of employers, employes and third parties; making provision for medical and surgical care of injured employes; establishing rates of compensation for personal injuries or death; providing methods of insuring and securing the payments of such compensation; making minors sui juris for certain purposes; creating a board to administer this act, prescribing the duties powers and rights thereof and imposing a tax upon insurance premiums, also a tax upon employers who carry their own risk for the maintenance of such board and providing a system of appeal to the courts from the decisions of such board; prescribing certain penalties, with an emergency clause, and appropriating certain sums to meet the expenses of putting this act into effect, and repealing all laws and parts of laws in conflict herewith, to the extent of such conflict.

Be it Enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. This act shall apply to all employers having five or more employes regularly engaged in the same occupation or business and to their employes, except that it shall not apply to domestic employment, agriculture, steam railways, or such common carriers, other than steam railways, for which a rule of liability is provided by the laws of the United States. It shall affect the liability of the employers subject thereto to their employes for personal injuries sustained by the employe by accident arising out of and in the course of his employment or for death resulting from such accidental injury; provided, however, that personal injury by accident as herein defined shall not include diseases except where the disease is the natural and direct result of a traumatic injury by accident, nor shall they include the results of a pre-existing disease.

Any employers and employes who are, by the provisions of this section, excepted from the provisions of this act may subject themselves thereto by joint voluntary application to the board, in writing, for such period as may be stated in the application, which shall be irrevocable during such period and effective thereafter until a written revocation be filed with the board or the employment be terminated.

§ 2. The term "employer" as used in this act shall be construed to include municipal corporations and any political subdivision or corporation thereof, and any election with reference to this act shall be exercised by the law-

making or other governing body thereof; provided, however, that nothing contained in this act shall be construed as amending or repealing any statute or ordinance relating to associations or funds for the relief, pensioning, retirement or other benefit of any employes of such municipal employer, or of the widows, children or dependents of such employes, or as in any manner interfering with the same as now or hereafter established.

§ 3. Whereas, at the time of the injury, both employer and employe have elected to furnish or accept compensation under the provisions of this act for a personal injury, received by an employe by accident and arising out of and in the course of his employment, or for death resulting from such injury, within two years thereafter, the employer shall be liable to provide and pay compensation under the provisions of this act and shall be released from all other liability, whatsoever; provided, however, that if injury or death result to an employe through the deliberate intention of his employer to produce such injury or death, the employe or his dependent as herein defined shall receive the amount provided in this act in a lump sum to be used, if they so desire to prosecute the employer, and said dependents shall be permitted to bring suit against said employer for any amount they may desire, that if injury or death results to an employe through the deliberate intention of his employer to produce such injury or death, the employe or his dependents as herein defined shall have the privilege to take under this act, or in lieu thereof, to have a cause of action at law against such employer as if this act had not been passed for such damages so sustained by the employe, his dependents or personal representatives as may be recoverable at law. If a suit is brought under this section, all right to compensation under the provisions of this act shall thereby be waived and void as to all persons, and if a claim is made for the payment of compensation or any other benefit provided by this act, all rights to sue the employer for damages on account of such injury or death shall thereby be waived and void as to all persons.

Notwithstanding anything hereinbefore or hereafter contained no employe or dependent of any employe shall be entitled to receive compensation on account of any injury to or death of an employe caused by a wilful self-inflicted injury, wilful misconduct or intoxication of such employe.

§ 4. In addition to all other compensation herein provided, such medical, surgical and hospital treatment, including nursing, medical and surgical supplies and appliances as may reasonably be required at the time of the injury and thereafter during disability, but not exceeding ninety days unless the board shall, by order made within that time, otherwise direct, not exceeding a total expense to the employer of more than $100 on account of the benefits provided by this section, to cure and relieve from the effects of the injury shall be furnished by the employer, and, in case of his refusal or neglect reasonably to do so, the employer shall be liable for the reasonable expense, within the limits of this section, incurred by or on behalf of the employe in providing the same.

In the event of an emergency, the employe shall have the right to call in any available physician or surgeon to administer such first aid as may be reasonably necessary at the expense of the employer within the limits of this section.

§ 4a. In all claims for hernia resulting from injury received in the course of and resulting from the employe's employment, it must be definitely proved to the satisfaction of the board:

First. That there was an injury resulting in hernia.

Second. That the hernia appeared suddenly and immediately followed the injury.

Fourth. That the hernia did not exist in any degree prior to the injury for which compensation is claimed.

In all such cases where liability for compensation exists, the employer shall provide competent surgical treatment by radical operation, the limits of benefits payable under section four hereof being increased to two hundred dollars in such cases, if the operation is performed. In case the injured employe refuses to submit to the operation, the employer shall have the right to a medical examination as provided in section thirty-seven hereof. If it be shown by such examination that the employe has any chronic disease or is otherwise in such physical condition so as to render it more than ordinarily unsafe to submit to such operation, he shall, if unwilling to submit to the operation, be entitled to compensation for disability under the general provisions of this act. If the examination does not disclose the existence of disease or other physical condition rendering the operation more than ordinarily unsafe and the employe, with knowledge of the result of such examination, thereafter refuses to submit to such operation, he shall be entitled to compensation for disability under the general provisions of this act for not exceeding one year.

If the employe submits to the operation, he shall, in addition to the surgical benefits herein provided for, be entitled to compensation for twenty-six weeks. If the hernia result in death within one year after it is sustained, or the operation result in death, such death shall be deemed a result of the injury causing such hernia and compensated accordingly under the provisions of this act. This paragraph shall not apply where the employe has refused to submit to an operation which has been found by the examination herein provided for, not to be more than ordinarily unsafe.

§ 5. If it be shown that the employer is furnishing the requirements provided by Section four hereof in such manner that there is reasonable ground for believing that the life, health or recovery of the employe is being endangered or impaired thereby, the board may order a change in the physician or other requirement, and if the employer fail promptly to comply with such order after receiving it, may permit the employe or some one for him to provide the same at the expense of the employer under such reasonable regulations as may be provided by the board.

No action shall be brought against any employer subject to this act by any employe or other person to recover damages for malpractice or improper treatment received by such employe from any physician, hospital or attendant thereof.

§ 6. All fees and charges under Sections four and five shall be fair and reasonable, shall be subject to regulation by the board and shall be limited to such charges as are reasonable for similar treatment of injured persons of a like standard of living in the same community and where such treatment

is paid for by the injured person himself. In determining what fees are reasonable, the board may also consider the increased security of payment afforded by this act.

Where such requirements are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting same. No compensation shall be payable for the death or disability of an employe if his death is caused, or if and in so far as his disability may be aggravated, caused or continued, by an unureasonable refusal, failure or neglect to submit to or follow any competent surgical treatment or medical aid or advice.

§ 7. Except as provided in sections four and five hereof, no compensation shall be payable for the first two weeks of disability, and all compensation shall be payable on the regular pay-day of the employer, commencing with the first regular pay-day after two weeks after the injury, with interest at the rate of 6% per annum on each installment from the time it is due until paid.

§ 8. Employers who hire employes within this State to work in whole or in part without this State, may agree in writing with such employes to exempt from the operation of this act injuries received outside of this State; in the absence of such an agreement, the remedies provided by this act shall be exclusive as regards injuries received outside this State upon the same terms and conditions as if received within this State.

§ 8a. No contract or agreement, written or implied, no rule, regulation or other device, shall in any manner operate to relieve any employer in whole or in part of any obligation created by this act except as herein provided.

§ 9. Whenever an injury for which compensation is payable under this act shall have been sustained under circumstances creating in some other person than the employer a legal liability to pay damages in respect thereto, the injured employe may at his option either claim compensation or proceed at law by civil action against such other person to recover damages, or proceed both against the employer for compensation and such other person to recover damages, but he shall not collect from both, and if compensation is awarded under this act the employer having paid the compensation or having become liable therefor, shall have the right to recover in his own name or that of the injured employe from the other person in whom legal liability for damages exists not to exceed the indemnity paid and payable to the injured employe.

§ 10. A principal contractor, intermediate, or sub-contractor shall be liable for compensation to any employe injured while in the employ of any one in* his intermediate or sub-contractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate or sub-contractor who shall pay compensation under the foregoing provision may recover the amount paid from any subordinate contractor through whom he may have been rendered liable under this section.

Every claim to compensation under this section shall in the first instance be presented to and instituted against the immediate employer, but such

* So in certified copy; probably intended for "of."

proceeding shall not constitute a waiver of the employe's rights to recover compensation under this act from the principal or intermediate contractor, provided that the collection of full compensation from one employer shall bar recovery by the employe against any others, nor shall he collect from all a total compensation in excess of the amount for which his immediate employer is liable.

This section shall apply only in cases where the injury occurred on, in or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

§ 11. A minor, except where employed in wilful violation of any law of this State regulating the employment of minors, shall be deemed sui juris for the purposes of this act, and no other person shall have cause of action or right to compensation for an injury to or death of such minor employe or loss of service on account thereof, by reason of the minority of such employe. In the event of the award of a lump sum of compensation to such minor employe, payment shall be made to the guardian of such minor.

§ 12. If death results within two years from an accident for which compensation is payable under this act, the employer or his insurer shall pay to the persons entitled to compensation, or, if none, then to the personal representative of the deceased employe reasonable burial expenses of a person of the standard of living of the deceased, not to exceed the sum of $75, and shall also pay to or for the following persons compensation as follows, to-wit:

(1) If there are no dependents, as herein defined, there shall be paid, in addition to the burial expenses and medical expenses, if any otherwise provided for herein, the further sum of $100, payment to be made* to the personal representative of the deceased employe.

(2) If there are one or more wholly dependent persons, 65% of the average weekly earnings of the deceased employe, but not to exceed $12 nor less than $5 per week, shall be payable, all such payments to be made for the period between the date of death and 335 weeks after the date of accident to the employe, or until the intervening termination of dependency, but in no case to exceed the maximum sum of $4,000.

(3) If there are partly dependent persons, the payments shall be such part of what would be payable for total dependency as the partial dependency existing at the time of the accident to the employe may be proportionate to total dependency, all such payments to be made for the period between the date of death and 335 weeks after the date of the accident to the deceased employe or until the intervening termination of dependency, but in no case to exceed in the aggregate of compensation on account of such death the maximum sum of $4,000.

Partial dependency shall be determined by the proportion of the earnings of the employe which have been contributed to such partial dependent during one year next preceding the date of injury; if the relation of partial dependency shall not have existed for one year next preceding the date of injury, the board shall consider all the facts and circumstances and fix such proportion as may be fair and reasonable thereunder.

* Appears "male" in certified copy—obviously an error.

(4) All relations of dependency herein referred to shall be construed to mean dependency existing at the time of accident to the employe.

§ 13. The following persons shall be presumed to be wholly dependent upon a deceased employe: (a) A wife upon a husband whom she has not voluntarily abandoned at the time of the accident; (b) A husband incapacitated from wage earning, upon a wife whom he has not voluntarily abandoned at the time of the accident to the wife; (c) A child or children under the age of sixteen years or over sixten years if incapacitated from wage earning, upon the parent with whom such child or children are living or by whom actually supported at the time of the accident. In all other cases the relation of dependency in whole or in part, shall be determined in accordance with the facts of each case existing at the time of the accident, but no person shall be considered a dependent in any degree unless he be living in the household of the employe at the time of the accident or unless such person bears to the employe the relation of father, mother, husband or wife, father-in-law or mother-in-law, grandfather or grandmother, child or grandchild, or brother or sister of the whole or half blood.

Compensation to any dependent shall cease at the death or legal or common-law marriage of such dependent and upon the cessation of compensation to or on account of any person, the compensation of the remaining persons entitled to compensation shall, for the unexpired period during which their compensation is payable, be that which such persons would have received during such unexpired period if they had been the only persons entitled to compensation at the time of the accident.

§ 14. As used in this act, the term "child" includes step-children, legally adopted children, posthumous children and recognized illegitimate children, but does not include married children unless actually dependent.

The terms "brother" and "sister" include step-brothers, step-sisters and brothers and sisters of the half blood or by adoption, but excludes married brothers or sisters unless actually dependent. The term "grandchild" includes children of adopted children and children of step-children, but excludes step-children of children or of adopted children and married children. The term "parent" includes step-parents and parents by adoption. The words "adopted" and "adoption" as herein used include cases where the persons are legally adopted.

§ 15. Payment of death benefits, in good faith, to a supposed dependent or to a dependent subsequent in right to another or other dependents shall protect and discharge the employer and insurer unless and until the lawful dependent or dependents prior in right shall have given the employer or insurer written notice of his or their claim. In case the employer or insurer is in doubt as to who are dependents or as to their respective rights, the board shall, on application, decide and direct to whom payment shall be made, and payment made under such direction shall release the employer and insurer from all liability; provided, however, that if an appeal be taken from the order of the board directing payment, persons receiving payment under such order shall be required to furnish bond for the protection of adverse claimants pending the outcome of the proceedings.

In case death occurs as a result of the injury, after a period of total or

partial disability, the period of disability shall be deducted from the total period of compensation and the benefits paid thereunder from the maximum allowed for the death respectively stated in Section 12 hereof.

§ 16. Where the injury causes total disability for work, the employer, during such disability, except the first two weeks thereof, shall pay the employe so injured a weekly compensation equal to 65% of his average weekly earnings, not to exceed $12 nor less than $5 per week, such payments to be made during the period of total disability but not longer than eight years after the date of the injury, nor in any case to exceed the maximum sum of $5,000. In case the period of total disability begins after the period of partial disability, the period of partial disaibility shall be deducted from the total period of eight years during which compensation for total disability may be payable, and the payments made on account of such partial disability shall be deducted from the maximum of $5,000.

In case of the following injuries, the disability shall be deemed total and permanent, to-wit:

(1) The total and permanent loss of sight in both eyes.

(2) The loss of both feet at or above the ankle.

(3) The loss of both hands at or above the wrist.

(4) A similar loss of one hand and one foot.

(5) An injury to the spine resulting in permanent and complete paralysis of both arms or both legs or of one arm and one leg.

(6) An injury to the skull resulting in incurable insanity or imbecility.

The above enumeration is not to be taken as exclusive, but in all other cases the burden of proof shall be on the claimant to prove that his injuries have resulted in permanent total disability.

§ 17. In case of an injury resulting in temporary partial disability, the employe shall receive during such disability, except the first two weeks thereof, a weekly compensation equal to 65 per cent of the difference between his average weekly earnings before the injury and the average weekly earnings which he earns or is able to earn in some suitable employment after the injury and during such disability, not to exceed 335 weeks from the date of injury nor exceeding the sum of $12 per week nor the maximum sum of $4000. In case partial disability follows a period of total disability such period of total disability shall be deducted from the maximum period allowed for partial disability and the benefits paid on account thereof from the maximum allowed for partial disability.

§ 18. For injuries enumerated in the following schedule, the employe shall receive in lieu of all other compensation, except such as may be payable under Sections 4 and 5 hereof, a weekly compensation equal to 65 per cent. of his average weekly earnings, but not less than $5 per week nor exceeding $12 per week, for the respective periods stated thereon, to-wit:

For the loss of a thumb, 65% of the average weekly wages during 60 weeks.

For the loss of a first finger, commonly called the index finger, 65% of the average weekly wages during 45 weeks.

For the loss of a second finger, 65% of the average wages during 30 weeks.

For the loss of a third finger, 65% of the average weekly wages during 20 weeks.

For the loss of a fourth finger, commonly known as the little finger, 65% of the average weekly wages during 15 weeks.

The loss of the second, or distal phalange, of the thumb shall be considered to be equal to the loss of one-half of such thumb; the loss of more than one-half of such thumb shall be considered to be equal to the loss of the whole thumb.

The loss of the third, or distal phalange, of any finger, shall be considered to be equal to the loss of one-third of such finger.

The loss of the middle, or second phalange, of any finger, shall be considered to be equal to the loss of two-thirds of such finger.

The loss of more than the middle and distal phalanges of any finger shall be considered to be equal to the loss of the whole finger, provided, however, that in no case will the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

For the loss of a metacarpel bone (bone of palm) for the corresponding thumb, finger or fingers above, add ten weeks to the number of weeks as above.

For ankylosis (total stiffness of) or contractures (due to sears or injuries) which makes the fingers more than useless, the same number of weeks apply to such finger or fingers (not thumb) as given above.

For the loss of a hand 65% of the average weekly wages during one hundred and fifty weeks.

For the loss of an arm, 65% of the average weekly wages during two hundred weeks.

For the loss of one of the toes, other than the great toe, 65% of the average weekly wages during 10 weeks.

For the loss of the great toe, 65% of the average weekly wages during 30 weeks.

The loss of more than two-thirds of any toe shall be considered equal to the loss of the whole toe.

The loss of less than two-thirds of any toe shall be considered to be equal to the loss of one-half toe. For the loss of a foot, 65% of the average weekly wages during 125 weeks.

For the loss of a leg, 65% of the average weekly wages during 200 weeks, or the total and permanent loss of the sight of an eye, 65% of the average weekly wages during one hundred weeks.

In all other cases of permanent partial disability, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employe, compensation shall be determined according to the percentage of disability, taking into account, among other things, any previous disability, the nature of the physical injury or disfigurement, the occupation of the injured employe and age at the time of injury; the compensation paid therefor shall be 65% of the average weekly earnings of the employe, but not less than $5 nor more than $12, multiplied by the percentage of dis-

ability caused by the injury, for such period as the board may determine, not exceeding 335 weeks nor a maximum sum of $4,000. Whenever the weekly payments under this paragraph would be less than $3 per week, the period may be shortened and the payments correspondingly increased to that amount. Where compensation, except as provided in Sections four and five of this act, is paid under any other provision of this act the period during which such other compensation is paid and the amount thereof shall be deducted respectively from the maximum period and maximum amount which may be paid under this paragraph.

§ 19. If an injured employe refuses employment reasonably suited to his capacity and physical condition procured for him, he shall not be entitled to compensation during the period of such refusal unless, in the opinion of the board, such refusal was justifiable.

§ 20. If a previously injured employe sustains a subsequent injury which results in a condition to which both injuries, or their effects, contribute the employer in whose employment the subsequent injury is sustained shall be liable only for the compensation to which such resulting condition entitled the employe, less all compensation which the provisions of this law would have afforded an account of the prior injury or injuries had they been compensated for thereunder.

§ 21. Upon its own motion or upon the application of any party interested and a showing of change of conditions, mistake or fraud, the board may at any time review any award or order, ending, diminishing or increasing the compensation previously awarded, within the maximum and minimum provided in this act, or change or revoke its previous order sending immediately to the parties a copy of its subsequent order or award. Review under this section shall be had upon notice to the parties interested and shall not affect the previous order or award as to any sums already paid thereunder.

§ 22. Compensation under this act to alien dependent widows and children, not residents of the United States, shall be one-half of the amount provided in each case for residents; and the employer may at any time, commute all future installments of compensation to alien dependents the then value thereof. Alien widowers, parents, brothers and sisters, not residents of the United States, shall not be entitled to any compensation.

§ 23. Any notice required to be given under this act shall be deemed to have been properly given and served when deposited in the mail in a registered letter or package properly stamped and addressed to the person to whom notice is to be given at his last known address and in time to reach him in due time to act thereon. Notice may also be given and served in like manner as are notices in civil actions.

Any notice, given and served as provided in this section, to the consular representative of the nation of which any non-resident dependent of a deceased employe is a citizen or subject or to the authorized agent or representative of any such official residing in this State, shall be deemed to have been properly given and served upon such dependent.

§ 24. Compensation shall be computed at the average weekly wage earned

by employe at time of injury reckoning wages as earned, while working at full time.

(a) If the employe, at the time of the injury, is regularly employed in a higher grade of work or occupation than formerly during the year and with larger regular wages, only such higher grade of work or occupation, if the same be not seasonal, shall be taken into consideration in computing his average weekly wages.

§ 25. Any payments made, or the value of supplies furnished by the employer or his insurer during the period of disability, to the employe or his dependents, which by the terms of this act were not due or payable when made or furnished, may, with the approval of the board, be deducted from the amount payable as compensation.

The board may, on the application of either party, in its discretion and having regard both to the welfare of the employe and the convenience and financial ability of the employer, authorize compensation to be paid monthly or quarterly.

§ 26. Whenever compensation has been paid for not less than six months thereafter, on the application of either party and upon notice to the other party, in any case where the board may determine that it will be for the best interests of either party and will not subject the employer or his insurer to an undue risk of overpayment, future payments of compensation or any part thereof may be commuted to a lump sum of an amount which will equal the total sum of the probable future payments so commuted, discounted at 5% per annum on each payment. Upon payment of such lump sum all liability for the payments therein commuted shall cease.

§ 27. Whenever for any reason the board may deem it expedient, any lump sum which is paid as provided in Section twenty-six hereof shall be paid to any suitable person or corporation appointed by the judge of the county court of the county of the residence of the injured employe, or of his dependents, as trustee to administer or apply the same for the benefit of the person or persons entitled thereto. The receipt of such trustee for the amount so paid to him or it shall discharge the employer and his insurer. Except as otherwise herein specifically provided, the manner of qualification and the rights, duties and liabilities of such trustee shall be determined by the general laws of this State.

§ 28. The benefits in case of death shall be paid to such one or more dependents of the deceased employe, for the benefit of all the dependents entitled thereto, as may be determined by the board. The dependents to whom payments are made shall apply the same to the use of the several persons thereto entitled under this act, according to their respective claims on the deceased for support. The compensation of an insane person shall be paid to his or her committee.

In cases where the dependents are a widow, or other head of a family of minor children, and one or more minor children, it shall be sufficient for the widow or head of such family to make application for compensation on behalf of all, and in cases where the dependents are mentally incapacitated or are minors the head of whose family is not a dependent, the application may be made by the committee, guardian or next friend of such dependents.

§ 29. Where an accident is caused in any degree by the intentional failure of the employer to comply with any specific statute or lawful regulation made thereunder, communicated to such employer and relative to installation or maintenance of safety appliances or methods, the compensation for which the employer would otherwise have been liable under this act shall be increased 15% in the amount of each payment; where the accident is caused in any degree by the intentional failure of the employe to use any safety appliance furnished by the employer, or to obey any lawful and reasonable rule, order or regulation of the board or the employer for the safety of employees or the public, the compensation for which the employer would otherwise have been liable under this act, shall be decreased 15% in the amount of each payment; provided, however, that nothing in this section shall be construed to conflict with or impair any of the provisions of Section three of this act.

§ 30. In case any minor employe who is injured or killed is, at the time of such injury, employed in wilful and known violation by the employer of any law of this State regulating the employment of minors, his statutory guardian, or personal representative of the minor so killed, may claim compensation under the terms of this act or may sue to recover damages as if this act had not been passed. If a claim to compensation be made under this section, the making of such claim shall be a waiver and bar to all rights of action on account of said injury or death of said minor as to all persons, and the institution of an action to recover damages on account of such injury or death shall be a waiver and bar of all rights to compensation under this act.

§ 31. All rights of compensation granted by this act shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor.

§ 32. No claim for compensation under this act shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors.

Procedure to Obtain Compensation.

§ 33. No proceeding under this act for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof, and unless a claim for compensation with respect to such injury shall have been made within one year after the date of the accident, or, in case of death, within one year after such death, whether or not a claim has been made by the employe himself for compensation. Such notice and such claim may be given or made by any person claiming to be entitled to compensation or by some one in his behalf. If payments of compensation, as such, have been made voluntarily, the making of a claim within such period shall not be required, but shall become requisite following the suspension of such voluntary payments.

§ 34. Such notice and such claim shall be in writing, and the notice shall contain the name and address of the employe, and shall state in ordinary language the time, place of occurrence, nature and cause of the accident, with names of witnesses, the nature and extent of the injury sustained, and the work or employment in which the employe was at the time engaged, and shall be assigned by him or a person on his behalf, or, in the event of his

death, by any one or more of his dependents or a person on their behalf. The notice may include the claim.

§ 35. Any such notice or claim shall be given to the employer, or if the employer be a partnership, then to any one of the partners. If the employer be a corporation, then the notice may be given to any agent of the corporation upon whom process may be served, or to any officer of the corporation, or agent of the corporation in charge of the business at the place where the injury occurred. Such notice or claim may be given by delivery to any of such persons or in the manner provided in Section twenty-three hereof.

§ 36. Such notice shall not be held invalid or insufficient by reason of any inaccuracy in complying with Section thirty-four hereof, unless it be shown that the employer was in fact misled to his injury thereby. Want of notice or delay in giving notice shall not be a bar to proceedings under this act if it be shown that the employer, his agent or representative, had knowledge of the injury, or that such delay or failure to give notice was occasioned by mistake or other reasonable cause.

§ 37. After an injury and so long as compensation is claimed, the workman, if so requested by his employer or the board, shall submit himself to examination, at reasonable time and places, to a duly qualified physician or surgeon designated and paid by the employer. The employe shall have the right to have a duly qualified physician or surgeon designated and paid by himself present at such examination, which right, however, shall not be construed to deny to the employer's physician or surgeon the right to visit the injured employe at all reasonable times and under all reasonable conditions. If an employe refuses to submit himself to or in any way obstruct such examination his right to take or prosecute any proceedings under this act shall be suspended until such refusal or obstruction ceases and no compensation shall be payable for the period during which said refusal or obstruction continues.

§ 38. No limitation of time provided in this act shall run against any person who is mentally incompetent or who is a minor dependent, so long as he has no committee, guardian or next friend.

Administration.

§ 39. A board is hereby created, to be known as the "Workmen's Compensation Board," which shall consist of three members appointed by the Governor. Each member of the board shall hold office for four years and until his successor shall have been appointed and qualified, except that when the board is first created, one member shall be appointed for two years, one for three years and one for four years. Thereafter, upon the expiration of the term of any member, his successor shall be appointed for a full term of four years. Of the board as first constituted, the member appointed for two years shall be chairman during his term, the member appointed for three years during the third year and the member appointed for four years during the fourth year. Thereafter, the senior member in length of service on the board in his current term in any given year shall be chairman during that year.

Vacancies on the board shall be filled by appointment for the remainder

of the unexpired term, but no vacancy shall impair the rights of the remaining members to exercise all the powers of the board, nor shall relieve such members from discharging all the duties of the board during such vacancy. In the event of a vacancy, the appointee for the unexpired term shall not succeed his predecessor in the chairmanship of the board; such other member as would, but for the vacancy, have been chairman shall at once succeed to the unexpired chairmanship, when a vacancy occurs therein, in addition to the year's chairmanship to which he would otherwise have been entitled.

§ 40. No person shall be eligible to appointment as a member of the board unless he shall be at least thirty years of age, a resident of Kentucky not less than three years consecutively next preceding his appointment, and of good moral character.

No person accepting appointment as a member of the board and qualifying as such shall be eligible to election or appointment to any public office during any calendar year which shall include any part of the term of membership on the board for which he may have been appointed and qualified and in which such election shall be held or appointment made. Resignation from membership on the board shall not relieve such member from any of the provisions of this section and the acceptance of appointment and qualification as a member of the board shall constitute a valid waiver of any and all statutory or constitutional rights to or eligibility for holding any other public office during such time.

§ 41. The Governor may, at any time, remove any member of the board for inefficiency, neglect of duty, misconduct in office or political activity, or if he become ineligible as defined in Section 40, giving him in advance a copy of the charges preferred and an opportunity of being publicly heard, in person or by counsel, upon not less than ten days' notice. A representative of the Attorney General's office shall attend such proceedings, and, upon the Governor's request, shall advise or assist him therein. Either party may procure the attendance of witnesses and their testimony as is now provided by the Civil Code in ordinary actions.

If such member be removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against such member and his findings thereon, together with a complete record of the proceedings had and transcript of testimony heard, the same to constitute a public record of the Commonwealth. Any member of the board may also be removed by the Senate, by impeachment under the same procedure as is now provided by law.

§ 42. The salary and expenses of the board with their assistants and employes shall be paid out of the maintenance fund provided for in Section 85 hereof; the annual salary of each member shall be three thousand five hundred dollars. The board may appoint a secretary at a salary of not more than twenty-five hundred dollars a year and a medical director and such other assistants and employes as are necessary to the proper administration of this act, at salaries to be fixed by the board and approved by the Governor; provided, however, that such salaries shall in no case exceed $75 per month to any stenographer, $100 per month to any clerical employe, $150 per month to any other employe or assistant, or $3,000 per year to the medical director, who

shall be a reputable licensed and practicing physician and surgeon of the professional education, training or qualification required by law for admission to practice in this state. The board may at any time remove any of its appointees upon filing with the Secretary of State a full written statement of its reasons for such removal.

§ 42a. Members of the "Workmen's Compensation Board" shall be considered as officers, and shall take the oath prescribed by the Constitution and laws of Kentucky, and shall give bond in the sum of $10,000 of a surety company authorized to do business in the State, for the faithful performance of their duties, which bonds shall be approved by the Governor and kept on file in the office of the Secretary of State, and any action on said bonds for breach thereof, shall be instituted by special counsel employed by the Governor and shall be in the name of the Commonwealth. The premium upon said bonds shall be paid out of the maintenance fund.

§ 42b. The board and their employes or authorized representatives shall, for such traveling as is necessitated by the discharge of their official duties, be allowed transportation actually paid for, not exceeding the regular fare over the most direct route, and meals and lodging actually paid for, not exceeding three dollars per day.

§ 43. The board shall keep and maintain its main offices in Frankfort, Kentucky, using suitable rooms and offices belonging to the State, and shall be provided necessary office furniture to be paid for out of the State treasury. The board shall provide necessary supplies, books, periodicals and maps and shall provide itself with a seal for the authentication of its orders, awards or proceedings, on which shall be inserted the words "Workmen's Compensation Board, State of Kentucky, Official Seal." The board may hold sessions at any place within the State where necessary and shall have power to sue or institute legal proceedings in any court of the Commonwealth, under existing laws as to jurisdiction of actions; unless consented to by the board, all actions or proceedings against it or a member thereof in his official capacity as such, shall be brought in the courts of the county of Franklin.

§ 44. The board shall fix and adopt at least one day of the week on which regular meetings shall be held bi-weekly for the transaction of all business, a quorum of the board to be present at its main offices not later than 11:00 A. M., and remaining at the office, or available thereto, until 5:00 P. M. of such day. When necessary, the chairman shall call the board together at any time during business hours on any other day to consider and transact any business which may be before it. All proceedings of the board shall be recorded in a book for that purpose by the secretary, which shall constitute a public record and shall contain an entry of each case, claim or proceeding considered, heard or passed upon by the board or a member thereof, with the award, finding or decision made thereon.

§ 45. For the purposes of this act, the State of Kentucky is hereby divided into three districts, to be known respectively as the Eastern, Central and Western Districts. The Eastern District shall contain the counties of Carroll, Gallatin, Boone, Kenton, Campbell, Owen, Grant, Pendleton, Bracken, Scott, Harrison, Robertson, Mason, Woodford, Jessamine, Fayette, Bourbon, Nicholas, Fleming, Lewis, Greenup, Boyd, Carter, Elliott, Rowan, Bath, Mont-

gomery, Clark, Madison, Estill, Powell, Menifee, Morgan, Lawrence, Johnson, Martin, Pike, Floyd, Knott, Letcher, Perry, Magoffin, Wolfe, Lee, Breathitt, Owsley. The Central District, the counties of Trimble, Henry, Oldham, Jefferson, Shelby, Franklin, Bullitt, Spencer, Anderson, Nelson, Washington, Mercer, Marion, Boyle, Garrard, Lincoln, Rockcastle, Green, Taylor, Adair, Casey, Russell, Pulaski, Cumberland, Clinton, Wayne, McCreary, Whitley, Laurel, Jackson, Clay, Leslie, Knox, Bell, Harlan. The Western District, the counties of Fulton, Hickman, Graves, Carlisle, Ballard, McCracken, Calloway, Marshall, Livingson, Crittenden, Lyon, Caldwell, Trigg, Christian, Hopkins, Webster, Union, Henderson, Daviess, McLean, Muhlenberg, Todd, Logan, Butler, Ohio, Hancock, Breckinridge, Meade, Hardin, Grayson, Larue, Edmonson, Hart, Warren, Barren, Metcalfe, Monroe, Allen. One member of the board, as first constituted, shall be appointed for each district, the successors of each to thereafter be appointed from such district. During his term of office, each member shall maintain his residence at some point in his district and shall adopt and maintain office hours for at least one day of the week at some point in his district, during usual business hours; the place, day and time of maintaining such office hours and the place of residence of the member shall be shown upon the official stationery used by him in his district.

§ 46. A majority of the board shall constitute a quorum for the transaction of business, and vacancies shall not impair the right of the remaining members to exercise all the powers of the full board, so long as a majority remains. Any investigation, inquiry or hearing which the board is authorized to hold or undertake may be held or undertaken by or before any one member of the board, or a referee acting for him, under authorization of the board. All investigations, inquiries, hearings and decisions of the board, and every order made by a member thereof, when approved by a majority of the members, and so shown on a record of its proceedings, shall be deemed to be the order of the board.

§ 47. The board may make rules not inconsistent with this act for carrying out the provisions of this act. Processes and procedure under this act shall be as summary and simple as reasonably may be. The board or any member thereof shall have the power for the purpose of this act to subpœna witnesses, administer or cause to have administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to question in dispute.

The county sheriff shall serve all subpœnas of the board and shall receive the same fees as now provided by law for like service in civil actions; each witness who appears in obedience to such subpœna of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts.

The circuit court shall, on application of the board, or any member thereof, enforce by proper proceedings, the attendance and testimony of witnesses and the production and examination of books, papers and records.

§ 48. If the employe and employer reach an agreement, conforming to the provisions of this act, in regard to compensation, a memorandum of the agreement shall be filed with the board, and, if approved by it, shall be enforceable in like manner as is herein provided for the enforcement of awards

of the board. Nothing herein shall prevent the voluntary payment of compensation in the amounts and for the periods herein prescribed, without formal agreement, but nothing shall operate as a final settlement except a memorandum of agreement filed with and approved by the board in accordance with this section, or the expiration of the time limit hereinbefore prescribed in Section 33.

§ 49. If the parties fail to reach an agreement in regard to compensation under this act, or if they have previously filed such an agreement with the board and compensation has been paid or is due in accordance therewith and the parties thereafter disagree, either party may make written application to the board for a hearing in regard to the matter at issue and for a ruling thereon. Such application for a hearing must be filed as soon as is practicable after disagreement, or after the cessation of voluntary payments, if any have been made.

As soon as possible after such application has been received the board shall set the date for a hearing, to be held as soon as is practicable in view of the matter involved, and shall notify the parties at issue of the time and place of such hearing.

Unless otherwise agreed to by the parties and authorized by the board, the hearing shall be held at or convenient to the place where the injury was sustained or the ground for disagreement occurred. In advance of directing a hearing, the board, or a member thereof, or referee authorized by the board, may confer informally with the parties at issue in an attempt to assist in adjusting their differences, but may not delay the granting of a hearing, over the objection of either party, for such purpose.

§ 50. The board, or any of its members, shall hear the parties at issue and their representatives and witnesses and shall determine the dispute in a summary manner. The award, together with a statement of the findings of fact, rulings of law and any other matters pertinent to the question at issue, shall be filed with the record of proceedings, and a copy of the award shall immediately be sent to the parties in dispute.

§ 51. If an application for review is made to the board within seven days from the date of the award, the full board, if the first hearing was not held before the full board, shall review the evidence, or if deemed advisable, as soon as practicable, hear the parties at issue, their representatives and witnesses and shall make and award and file the same in like manner as specified in the foregoing section.

If a party introduce at a hearing before the full board a witness whose testimony at the original hearing appears in the transcript of evidence taken thereat, the costs accruing through the attendance of such witness and the transcribing of his testimony at the second hearing shall be borne by the party introducing him, at such hearing, regardless of the outcome of the controversy.

§ 52. An award, or order of the board, as provided in Section 50, if application for review be not filed as therein provided, or an award or order of the board upon review as provided in Section 51, shall be conclusive, and binding as to all questions of fact, but either party may, within twenty days after the rendition of such final order or award of the board may by petition appeal to the circuit court that would have jurisdiction to try an action for

damages for said injuries if this Act had not passed, for the review of such order or award, the board and the adverse party being made respondents. Such petition shall state fully the grounds upon which a review is sought, assign all errors relied on and shall be verified by the petitioner, who shall furnish copies of the petition to the respondents at the time of filing same.

Summons shall issue upon the petition, directing the adverse party to file answer within fifteen days after service thereof and directing the board to certify its complete record of the case to the court, or, in lieu thereof, and if consented to by the petitioner and adverse party, an abstract of the record prepared in the same manner as hereinafter provided for appeals to the Court of Appeals.

No new or additional evidence may be introduced in the circuit court, except as to the fraud or misconduct of some person engaged in the administration of this Act, and affecting the order, ruling or award, but the court shall otherwise hear the cause upon the record or abstract thereof as certified by the board, and shall dispose of the cause in summary manner, its review being limited to determining whether or not:

1. The board acted without or in excess of its powers.

2. The order, decision or award was procured by fraud.

3. The order, decision or award is not in conformity to the provisions of this Act.

4. If findings of fact are in issue, whether such findings of fact support the order, decision or award.

The board and each party shall have the right to appear in such review proceedings; the court shall enter judgment affirming, modifying or setting aside the order, decision or award, or in its discretion remanding the cause to the board for further proceedings in conformity with the direction of the court. The court may, in advance of judgment and upon a sufficient showing of fact, remand the cause to the board.

§ 53. Where an amount sufficient under existing laws to authorize an appeal to the Court of Appeals is involved, the judgment of the circuit court shall be subject to appeal to the Court of Appeals, the scope of whose review shall include all matters herein made the subject of review by the circuit court and also errors of law arising in the circuit court and upon appeal made reviewable by the Civil Code of procedure where not in conflict with the provisions of this Act. The procedure as to appeal to the Court of Appeals shall be the same as in civil actions, so far as the same may be applicable to and not in conflict with the provisions of this act, except as follows:

1. Only so much of the evidence shall be embraced in a bill of exceptions as may be necessary to present clearly the questions of law involved in the rulings to which exceptions are reserved, and such evidence as is embraced therein shall be set forth in condensed and narrative form, save as a proper understanding of the questions presented may require that parts of it be set forth otherwise.

2. In order to carry out the provisions of sub-section 1 and further to reduce the size of the record on appeal, it shall be the duty of the appellant to file with the clerk of the circuit court, together with proof or acknowledgment of service of a copy on the appellee or his counsel, a schedule which shall

indicate the portions of the record to be incorporated into the transcript of the record on such appeal. Should the appellee or his counsel desire additional portions of the record incorporated into the record to be filed in the Court of Appeals, he may file with the clerk of the circuit court his schedule also, within ten days thereafter (unless the term be extended by order of the circuit court or of the Court of Appeals), indicating such additional portions of the record desired by him.

The clerk of the circuit shall transmit to the Court of Appeals as the transcript of the record only those portions of the record in the lower court which are designated by the parties as above provided. The parties, or their counsel, may, however, agree by written stipulation to be filed with the clerk of the circuit court, the portions of the record which shall constitute the transcript of record on appeal, and the clerk in such case shall transmit only the papers designated in such stipulation.

§ 54. If the Court of Appeals shall find that portions of the record unnecessary to a proper presentation of the case have been incorporated into the transcript by either party, the court may order that the whole or any part of the clerk's fee for preparing the transcript shall be paid by the offending party.

Whenever it shall be necessary or proper, in the opinion of the judge of the circuit court, that original papers of any kind should be inspected by the Court of Appeals, such judge may make such rule or order for the safekeeping, transporting and return of such original papers as to him may seem proper, and the Court of Appeals will receive and consider such original papers in connection with the transcript of the record.

§ 55. Upon motion of either party and a sufficient showing of reason or necessity therefor, the court to which an appeal is taken may continue in force the award, judgment or order appealed from, pending its decision of such appeal.

§ 56. Any party in interest may file in the circuit court of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the board or of an order or decision of the board, or of an award of the board unappealed from, or of an award of the board rendered upon an appeal, whereupon said court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same as though said judgment had been rendered in a suit duly heard and determined by said court.

Any such judgment of said circuit court unappealed from or affirmed on appeal or modified in obedience to the mandate of the Appellate Court, shall be modified to conform to any decision of the board, ending, diminishing or increasing any weekly payment under the provisions of Section 21 of this Act, upon a presentation to it of a certified copy of such decision.

§ 57. If the board or any court before whom any proceedings are brought under this act shall determine that such proceedings have been brought, prosecuted or defended without reasonable ground, it may assess the whole cost of the proceedings upon the party who has so brought, prosecuted or defended them.

§ 58. The board, or any member thereof, may, upon the application of either party, or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employe and to testify in respect thereto. Said physician or surgeon shall be allowed traveling expenses and a reasonable fee to be fixed by the board, but not exceeding $10 for each examination and report, but the board may allow additional reasonable amounts in extraordinary cases.

The fees and expenses of such physician or surgeon shall be paid out of the maintenance fund.

§ 59. All fees of attorneys and physicians and charges of hospitals under this Act shall be subject to the approval of the board. No attorney's fees shall be allowed or approved against any party or parties not represented by such attorney, nor exceeding an amount equal to 15% of the amount of the first $1,000 or fraction thereof recovered, or 10% of the excess of such recovery, if any, over $1,000. The board may deny or reduce an attorney's fee upon proof of solicitation of employment.

§ 60. All questions arising under this act, if not settled by agreement of the parties interested therein, with the approval of the board, shall be determined by the board except as otherwise herein provided for.

§ 61. Every employer subject to this Act shall hereafter keep a record of all injuries, fatal or otherwise, received by his employes in the course of their employment. Within one week after the occurrence and knowledge thereof, as provided in Sections 33-36, of an injury to an employe, causing his absence from work for more than one day, a report thereof shall be made in writing and mailed to the board on blanks to be procured from the board for the purpose.

Upon the termination of the disability of the injured employe, or if the disability extends beyond a period of sixty days, then also at the expiration of such period, the employer shall make a supplementary report to the board on blanks to be procured from the board for the purpose.

The said report shall contain the name, nature and location of the business of the employer, and name, age, sex, wages and occupation of the injured employe, and shall state the date and hour of the accident, causing the injury, the nature and cause of the injury, and such other information as may be required by the board.

Any employer subject to this act who refuses or wilfully neglects to make the report required by this section shall be liable for a fine of not more than $25 for each such refusal or neglect.

§ 62. Any person who shall knowingly file, cause to be filed, or permit to be filed, any false or fraudulent claim, on his behalf, to compensation or other benefits under this Act, or who shall by fraud, deceit or misrepresentation procure or cause to be made or shall receive any payments of compensation or other benefits under this act to which the recipient is not lawfully entitled, or shall conspire with, aid or abet another so to do, shall be guilty of a misdemeanor.

Any person who shall by deceit or misrepresentation and with intent to defraud, cause or procure or conspire with, aid or abet another in so causing

or procuring, any person entitled to compensation or other benefits under this Act to omit to title claim thereto or to accept the payment of a less sum than that to which he may be lawfully entitled to thereunder, shall be guilty of a misdemeanor.

Any person guilty of a misdemeanor as defined in this section shall, upon conviction, be punishable by a fine of not less than $50 nor more than $500, or imprisonment of not less than ten nor more than ninety days, in the discretion of the jury.

§ 63. Every employer under this Act shall either insure and keep insured his liability for compensation hereunder in some corporation, association or organization authorized to transact the business of workmen's compensation insurance in this State, or shall furnish to the board satisfactory proof of his financial ability to pay direct the compensation in the amount and manner and when due as provided for in this Act. In the latter case, the board shall require the deposit of an acceptable security, indemnity or bond to secure to such an extent as the board may direct, the payment of compensation liabilities as they are incurred.

Every employer accepting the provisions of this act shall at the time of such acceptance file with the board in substantially the form prescribed by it, and annually thereafter, or as often as may be necessary, evidence of his compliance with the provisions of this section and all others relating thereto. Until these provisions are complied with, the employer, shall, from the date of his acceptance of the act, be liable to an employé either for compensation under this Act or at law in the same manner as if the employer had refused to accept the provisions of this Act. Claim of compensation in such cases shall be deemed a waiver of the right to proceed at law and the institution of an action at law shall be deemed a waiver of all claim to compensation.

§ 64. Whenever an employer has complied with the provisions of Section 63, relating to self-insurance, the board shall issue to such employer a certificate which shall remain in force for a period fixed by the board, but the board may, upon at least sixty days' notice and a hearing to the employer, revoke the certificate upon satisfactory evidence for such revocation having been presented. The board may thereafter, upon petition of the employer and a hearing, grant a new certificate, but the employer shall not, as a matter of right, be entitled to a hearing for this purpose sooner than six months after a previous revocation of his certificate.

Authorization to make payments of compensation direct may be granted either as to the employer's entire risk, or as to such part or class thereof as the board may direct in its certificate. In the latter case the board shall determine the extent to which and the manner in which the remainder of his said risk shall be insured. Any employer authorized to make payments of compensation direct, may, for his own protection, independently insure the whole or any part or character of such payments.

§ 65. For the purposes of complying with the provisions of Section 63 groups of employers are hereby authorized to form either among themselves or with employers in other states Mutual Insurance Associations or Reciprocal or Inter-insurance Exchanges subject to the general laws of this State relating to such Mutual Insurance Associations or Reciprocal or Inter-insurance

Exchanges and such reasonable conditions and restrictions, not inconsistent therewith, as may be fixed by the board. Membership in such Mutual Insurance Associations or Reciprocal or Inter-insurance Exchanges so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with Section 63.

The board shall have power in any case to require any Mutual Insurance Association or Reciprocal or Inter-insurance Exchange to purchase an annuity or to effect re-insurance with a company authorized to transact insurance in this State or to make such deposit with a bank or trust company of this State as shall in either case be approved by said board for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.

Any unreasonable failure or delay in securing the payment of any deferred installments of compensation after request has been made by such board as provided in this action,* shall, when reported to the Insurance Commissioner, constitute grounds for suspension or revocation of the insurer's license to do business in this State.

§ 66. Subject to the approval of the board any employer may enter into or continue any agreement with his employe to provide a system of compensation, benefit or insurance in lieu of the compensation and insurance provided by this act. No such substitute system shall be approved unless it confers benefits upon injured employes at least equivalent to the benefits provided by this act, nor if it requires contributions from the employes, unless it confers benefits in addition to those provided under this Act at least commensurate with such contributions.

Such substitute system may be terminated by the board on reasonable notice and hearing to the interested parties if it shall appear that the same is not fairly administered, or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this Act; and in this case the board shall determine upon the proper distribution of all remaining assets, if any, subject to the right of any party in interest to take an appeal to the courts.

§ 67. All policies insuring the payment of compensation under this Act must contain a clause to the effect that as between the employer and the insurer the notice to or knowledge of the occurrence of the injury on the part of the insured shall be deemed notice or knowledge, as the case may be, on the part of the insurer; that jurisdiction of the insured for the purpose of this Act shall be jurisdiction of the insurer; and that the insurer shall in all things be bound by and subject to the awards, judgments or decrees rendered against such insured.

§ 68. No policy of insurance against liability for compensation arising under this act shall be issued unless it contains the agreement of the insurer that it will promptly pay to the person entitled to same all benefits conferred by this Act, and all installments of the compensation that may be awarded or agreed upon, and that the obligation shall not be affected by any default in the giving of any notice required by such policy, or otherwise. Such agreement

* Evidently intended for "section."

shall be construed to be a direct promise by the insurer to person entitled to compensation enforceable in his name.

§ 69. Every policy for the insurance of the compensation herein provided, against liability therefor, shall be deemed to be made subject to the provisions of this act. No corporation, association or organization shall enter into any such policy of insurance unless its form shall have been approved by the board.

§ 70. Every policy or contract of workmen's compensation insurance under this Act, issued or delivered in this State, shall cover the entire liability of the employer for compensation under this Act to each and all of his employes covered by such policy, except as otherwise provided in Section 64 hereof, regardless of whatever other contingencies may be insured or provided for by riders attached thereto or endorsements made thereon. On the face of every such policy shall be printed conspicuously the words, "Insurance under this policy is in Class (designating the same) of the Company's Workmen's Compensation Classification Manual," and in the blank thus provided the number or other designation in said manual under which the said policy is written shall be placed before the policy is issued. If more than one class of risk be covered by the same policy, the separate risks and their corresponding manual classifications shall be stated in the same manner.

§ 71. No such policy of insurance or rider to be used therewith shall be issued or delivered until a copy of the form thereof has been filed with the Commissioner of Insurance at least thirty days prior to such issue or delivery, unless before the expiration of thirty days the said Commissioner shall have approved the form thereof in writing; nor if the Commissioner of Insurance notifies the company in writing that in his opinion the form of said policy or rider does not comply with the laws of this Commonwealth, specifying fully the reasons for his opinion; provided, that upon petition of the company the decision of the said Commissioner shall be subject to review by the Franklin Circuit Court and to appeal therefrom to the Court of Appeals.

§ 72. The rates charged by all carriers of insurance, including the parties to any mutual, inter-indemnity, inter-insurance, reciprocal or other plan or scheme, writing insurance against the liability for compensation under this Act, for insurance against such liability and against the liability of employers to employes where either or both have not elected to furnish or accept compensation under this Act, shall be fair, reasonable and adequate, with due allowance for merit rating, and all risks of the same kind and degree of hazard shall be written at the same rate by the same carrier. No policy of insurance against liability for compensation under this act shall be valid until the rate thereof has been approved by the board, nor shall any such carrier of insurance write any such policy or contract until its basic and merit rating schedule have been filed with, approved and not subsequently disapproved by the board. Each such insurance carrier shall report to the board* State Insurance Commissioner in accordance with such reasonable rules as the State Insurance Commissioner may at any time prescribe, for the purpose of

* So in certified copy.

determining the solvency of the carrier, and the adequacy of its rates; for such purposes the board or State Insurance Commissioner may inspect the books and records of such insurance carrier, and examine its officers, agents and directors under oath.

§ 73. Election to operate under the provisions of this Act shall be effected by the employer by filing with the board the following notice, to-wit:

"(Name of employer) elects to operate under the provisions of Chapter ....., Acts of 1916, commonly known as the Workmen's Compensation Act, this election being effective as of the day of ..... and covering (here insert name of industry, business or operation on which election is made)."

In addition to the name of each industry, business or operation as to which such election is filed, there shall also be stated in the notice with reference thereto (1) its location and address of chief office, (2) average number of employes during preceding twelve months, (3) kind of business being conducted, (4) method of securing payments of compensation to employes which the employer elects to adopt.

Such notice shall be in writing and signed by the employer, if an individual, by any partner if a partnership, or by the chief officer or agent within this State if a corporation.

§ 74. Election to operate under the provisions of this Act shall be effected by the employe by signing the following notice, to-wit:

"I hereby agree with (name of employer) to accept the provisions of Chapter ....., Acts of 1916, commonly known as the Kentucky Workmen's Compensation Act."

The election shall be effective from, and including, the date of signing, which shall be inserted opposite the employe's signature. In case an employe be unable to write, his mark shall be witnessed by a third person, who shall at the time read the notice to the employe. Any number of employes may sign the same notice, provided that there be conspicuously written or printed at the top of each page thereof on which signatures appear a copy of the above form of notice. If the employment be intermittent or be temporarily suspended, the original acceptance of the employe shall continue effective in subsequent employment under the same employer.

Identification of such signature or mark of the employe shall constitute conclusive proof of his election to operate under the provisions of this Act, in any hearing or proceeding in which such election may be material or in issue.

§ 75. All such notices of election by employes shall, when executed, be preserved by the employer during the continuation of the employment of those employes whose names are subscribed thereto. Any person who shall, with fraudulent intent, wilfully destroy, convert or secrete any such notice, or wilfully deprive the owner or his agent thereof, or erase or obliterate any part thereof, shall be guilty of a misdemeanor and upon conviction be punishable by a fine of not less than $50 nor more than $200, or imprisonment of not less than ten days nor more than ninety days, in the discretion of the jury.

§ 76. At any time after electing to operate under the provisions of this Act, either party may withdraw such election, the employer by filing written

notice with the board stating the date when such withdrawal is effective and the industry, business or operation covered thereby, by personal written notice to the employe or posting in conspicuous places about such place of business not less than one week next preceding the date on which the same is to become effective copies of such notice of withdrawal; the employe desiring to withdraw such election shall file with the employer a written notice of withdrawal, stating the date when such withdrawal is to become effective. Following the filing or giving of such notices, the status of the party withdrawing shall become the same as if his former election had not been made; provided, however, that withdrawal shall not be effective as to an injury sustained less than one week after the filing thereof.

An employer, while operating under the provisions of this Act, shall at all times keep posted in conspicuous places about his place of business notices to that effect, in such form as may be prescribed by the board.

§ 76a. Every employer affected by the provisions of this Act who does not elect to operate thereunder shall not, in any suit at law by an employe or his representative to recover damages for personal injury or death by accident arising out of and in the course of his employment, be permitted to defend any such suit at law upon any or all of the following grounds:

(1) That the employe was guilty of contributory negligence.

(2) That the injury was caused by the negligence of a fellow servant of the injured employe.

(3) That the employe has assumed the risk of injury.

§ 76b. Every employe affected by the provisions of this act who does not elect to operate thereunder, and his representative in case of death, shall, in any suit at law to recover damages for personal injury or death by accident arising out of and in the course of his employment against an employer electing to operate under the provisions of this Act, proceed at law as if this act had not been enacted, and the employer may avail himself of the defenses of contributory negligence, negligence of a fellow servant and assumption of risk as such defenses now exist at common law.

§ 77. No agreement by any employe to pay any portion of the insurance premium paid by his employer shall be valid, and any employer who deducts any portion of such premium from the wages or salary of any employe entitled to the benefits of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $100, for each offense.

§ 78. Upon the request of the board, the Attorney General, or, under his direction, the Commonwealth's Attorney or County Attorney of any county, shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of this Act, arising within the county or counties of their respective jurisdictions, and shall defend in like manner all suits, actions or proceedings brought against the board or the members thereof in their official capacity.

§ 79. The board shall prepare and furnish, free of charge, blank forms and provide its rules for their distribution, so that the same may be readily available, of all notices, claims, reports, proofs and other blank forms and literature which it may deem proper and requisite to the efficient adminis-

tration of this Act. It may authorize the publication and distribution of such blanks by employers and their insurers in manner and form provided by it.

§ 80. Annually on or before the 15th day of December the board shall make a report to the Governor for the preceding fiscal year, which shall include a statement of the number of awards made and of claims rejected by it, a general statement of the causes of accident leading to the injuries for which awards were made or rejected claims based, and a detailed statement of the disbursements from, and unpaid expenses chargeable against, the maintenance fund and its condition, together with any other information which the board deems proper to call to the attention of the Governor, including any recommendations it may have to make, and it shall be the duty of the board to publish and distribute among employers and employees such general information as to the business transacted by the department as may be useful and necessary; provided, however, that an abuse of such right to so publish and distribute information shall constitute political activity within the meaning of Section 41 hereof.

The annual report shall not exceed five hundred copies. All printing of the department shall be done by the contractor or contractors for public printing, subject to such provisions of the general laws governing public printing as may be applicable thereto, and shall be paid for out of any funds in the State treasury not otherwise appropriated.

§ 81. This act shall become effective on the first day of August, 1916, except as to Sections 39 to 47, hereof, both inclusive, relating to the appointment of the board and their rights, powers and duties, an emergency is declared to exist, and the same shall become effective on the first day of April, 1916.

Elections by employers and employes and contracts of insurance entered into in conformity with the provisions of this Act, between April 1st, 1916, and August 1st, 1916, to become effective on or after August 1st, 1916, shall be valid and enforceable.

§ 82. For the purpose of paying the salaries and expenses of the board and its necessary employes in making preparation and putting this Act into operation the sum of $7,500 is hereby appropriated, payable out of any funds in the State treasury not otherwise appropriated. All claims for salaries or expenses, when approved by resolution of the board, and countersigned by the chairman thereof, shall be presented to the Auditor of Public Accounts, who shall issue his warrant in payment thereof. All such claims shall show to whom and for what service, material or other things or reason such amounts are to be paid and shall be accompanied by voucher checks or receipts covering the same except as to items of less than $1.00.

§ 83. For the purpose of paying the salaries and necessary expenses of the board and its assistants and employes in administering and carrying out the provisions of this Act an administrative fund shall be created and maintained in the following manner:

Sub-section 1. Every person, partnership, association, corporation, whether organized under the laws of this or any other state or country, company, mutual company or association, the parties to any inter-indemnity contract or reciprocal plan or scheme, and every other insurance carrier, insuring

employers in this state against liability for personal injuries to their employes, or death caused thereby, under the provisions of this Act, shall, as hereinafter provided, pay a tax upon the premiums received, whether in cash or notes, in this State or on account of business done in this State, for such insurance in this State, at the rate of 4 per cent. of the amount of such premiums, which tax shall be in lieu of all other taxes on such premiums, which tax shall be assessed and collected as hereinafter provided. Provided, however, that such insurance carriers shall be credited with all cancelled or returned premiums actually refunded during the year on such insurance, and with premiums, on re-insurance with companies authorized and licensed to transact business in Kentucky, which re-insurance shall be reported by the re-insurer; but no credit shall be allowed for re-insurance in companies not licensed to transact business in Kentucky.

Sub-section 2. Every such insurance carrier shall, for the six months ending October 31st, 1916, for the eight months ending June 30th, 1917, and annually thereafter, make a return verified by the affidavit of its president and secretary, or other chief officers or agents, to the Commissioner of Insurance, stating the amount of all such premiums and credits during the period covered by such return. Every insurance carrier required to make such return shall file the same with the Commissioner of Insurance within thirty days after the close of the period covered thereby and shall at the same time pay into the State treasury a tax of $4 on each $100 of such premium ascertained as provided in subsection 1 hereof, less returned premiums on cancelled policies and re-insurance with other companies licensed to transact business in this State, and upon payment file a statement with the Secretary of State. Upon receiving such payments the State Treasurer shall place the whole thereof to the credit of the fund for the administration of this Act.

Sub-section 3. If any such insurance carrier shall fail or refuse to make the return required by this Act, the said Commissioner of Insurance shall assess the tax against such insurance carrier at the rate herein provided for, on such amount of premiums as he may deem just, and the proceedings thereon shall be the same as if the return had been made.

Sub-section 4. If any such insurance carrier shall withdraw from business in this State before the tax shall fall due, as herein provided, or shall fail or neglect to pay such tax, the Commissioner of Insurance shall at once proceed to collect the same, and he is hereby empowered and authorized to employ such legal process as may be necessary for that purpose, and when so collected he shall pay the same into the State treasury. The suit may be brought by the Commissioner of Insurance, in his official capacity, in any court of this State having jurisdiction; reasonable attorney's fees may be taxed as costs therein, and process may issue to any county of the State, and may be served as in civil actions, or in cases of unincorporated associations, partnerships, inter-indemnity contracts or other plan or scheme, upon the principal agent of the parties thereto.

Sub-section 5. Any person or persons who shall in this State act or assume to act as agent for any such insurance carried whose authority to do business in this State has been suspended, while such suspension remains in force, or shall neglect or refuse to comply with any of the provisions of this

section obligatory upon such persons or party, or who shall wilfully make a false or fraudulent statement of the business or condition of any such insurance carrier or false or fraudulent return as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment for not less than ten nor more than ninety days, or both such fine and imprisonment, in the discretion of the jury.

Sub-section 6. Whenever by this Act any officer is required to give any notice to an insurance carrier, the same may be given by delivery, or by mailing by registered letter properly addressed and stamped, to the principal office or chief agent of such insurance carrier within this State, or to its home office, or to the secretary, general agent or chief officer thereof in the United States.

Sub-section 7. Any insurance carrier liable to pay a tax upon premiums under this Act shall not be liable to pay any other or further tax upon such premiums, or on account thereof, under any other law of this State.

Sub-section 8. Every employer carrying his own risk under the provisions of Section 63 shall, under oath, report to the board his pay roll subject to the provisions of this Act. Such report shall be made in form prescribed by the board and at the times herein provided for premium reports by insurer. The board shall assess against such pay roll a maintenance fund tax computed by taking 4 per cent of the basic premiums chargeable against the same or most similar industry or business, taken from the manual insurance rates for compensation then in force in this State.

Sub-section 9. The board shall not be authorized to incur expenses or indebtedness during any period, chargeable against the maintenance fund, in excess of the premium tax payable to such fund for the same period. If it be ascertained that the tax collected for a given period exceeds the total expense chargeable against the maintenance fund under the provisions of this act, the board may authorize a corresponding credit upon collections for the succeeding period.

§ 84. Kentucky Employes' Insurance Association.—For the purpose of carrying out the provisions of this act, and of affording to employers a method of insuring their liability as required thereby, the Kentucky Employes' Insurance Association is hereby created a body corporate with the powers provided herein and with all the general corporate powers incident thereto.

§ 85. The Board of Directors of the Association shall consist of 15 members thereof, three of whom shall be appointed by the Governor, and 12 of whom shall be elected by ballot of the subscribers, in accordance with Section 207 of the Constitution. Of the original directors appointed by the Governor, one shall be appointed for one year, one for two years, and one for three years; annually thereafter one director shall be appointed for a term of three years. Election of directors by the subscribers shall be held at such times and in such manner as the by-laws shall provide.

§ 86. The appointed directors shall, within thirty days of the subscription of twenty-five employers, call the first meeting of the subscribers by a

notice in writing mailed to each subscriber at his place of business not less than ten days before the date fixed for the meeting.

§ 87. At the first meeting of the subscribers the remaining twelve directors shall be elected. The board of directors may thereafter exercise power as such and may adopt by-laws not inconsistent with the provisions of this Act.

§ 88. The board of directors shall annually choose by ballot a president, who shall be a member of the board, a secretary, a treasurer, and such other officers as the by-laws shall provide.

§ 89. Seven or more of the directors shall constitute a quorum for the transaction of business.

Vacancies in any office may be filled in such manner as the by-laws shall provide.

§ 90. Any employer in the Commonwealth may become a subscriber.

§ 91. In any meeting of the subscribers each subscriber shall be entitled to one vote, and if a subscriber has 250 employes to whom the association is bound to pay compensation he shall be entitled to two votes, and he shall be entiled to one additional vote for each additional 250 employes to whom the association is bound to pay compensation, but no subscriber shall cast by his own right or by the right of proxy, more than 10 votes.

§ 92. No policy shall be issued by the association until* less than fifty employers have subscribed who have not less than five thousand employes to whom the association may be bound to pay compensation.

§ 93. No policy shall be issued until a list of the subscribers, with the number of employes of each, together with such other information as the Insurance Commissioner may require, shall have been filed at the insurance department, nor until the president and secretary of the association shall have certified under oath that every subscription in the list so filed is genuine and made with an agreement by every subscriber that he will take the policies subscribed for by him, within thirty days of the granting of a license to the association by the Insurance Commissioner to issue policies.

§ 94. The board of directors shall distribute the subscribers into groups in accordance with the nature of the business and the degree of the risk of injury.

Subscribers within each group shall annually pay in cash, or notes absolutely payable, such premiums as may be required to pay the compensation herein provided for the injuries which may occur in that year.

§ 95. The association may in its by-laws and policies fix the contingent mutual liability of the subscribers for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a subscriber shall not be less than an amount equal to and in addition to the cash premium.

§ 96. If the association is not possessed of cash funds above its unearned premiums sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon the subscriber liable to assesment therefor in proportion to their several liability.

* The word "not," in bill as introduced, is omitted from certified copy.

Every subscriber shall pay his proportional part of any assessments which may be laid by the association, in accordance with law and his contract, on account of injuries sustained and expenses incurred while he is a subscriber.

§ 97. The board of directors may, from time to time, by vote, fix and determine the amount to be paid as a dividend upon policies expiring during each year after retaining sufficient sums to pay all the compensation which may be payable on account of injuries sustained and expenses incurred.

All premiums, assessments and dividends shall be fixed by and for groups as heretofore provided in accordance with the experience of each group, but all the funds of the association and the contingent liability of all the subscribers shall be available for the payment of any claim against the association.

§ 98. Any proposed premium, assessment, dividend or distribution of subscribers shall be filed with the insurance department and shall not take effect until approved by Insurance Commissioner after such investigation as he may deem necessary.

§ 99. The board of directors shall make and enforce reasonable rules and regulations for the prevention of injuries on the premises of subscribers, and for this purpose the inspectors of the association shall have free access to all such premises during regular working hours.

Any subscriber or employe aggrieved by any such rule or regulation may petition the Workmen's Compensation Board for a review and it may affirm, amend or annul the rule or regulation.

§ 100. If any officer of the association shall falsely make oath to any certificate required to be filed with the Insurance Commissioner, he shall be guilty of perjury.

§ 101. This act shall not affect any causes of action existing or action pending on August 1, 1916, and, its application as between employer and employe, except as otherwise herein provided, shall date from and include August 1, 1916.

§ 102. The rule of law requiring strict construction of statutes in derogation of the common law shall not be applicable to the provisions of this Act. If any section or part thereof shall be held invalid, such partial invalidity shall not affect the Act as a whole or any other section or part thereof.

Approved March 23rd, 1916.

A. O. Stanley,
Governor.
James D. Black,
President of the Senate.
H. C. Duffy,
Speaker of the House of Representatives.

Commonwealth of Kentucky

OFFICE OF THE SECRETARY OF STATE

CERTIFICATE

I, JAMES P. LEWIS, Secretary of State for the Commonwealth of Kentucky, do certify that the foregoing writing has been carefully compared by me with the original record thereof, now in my official custody as Secretary of State and remaining on file in my office, and found to be a true and correct copy of Senate Bill No. 40. An Act to provide an elective system of workmen's compensation for industrial accidents, prescribing the manner of election and the rights and liabilities of employers, employes and third parties; making provision for medical and surgical care of injured employes; establishing rates of compensation for personal injuries or death, etc.

IN WITNESS WHEREOF, I have hereunto set my hand.

Done at Frankfort this 4th day of April, 1916.

J. P. Lewis,
Secretary of State.

By C. J. Howes,
Assistant Secretary of State.

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